UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

PAULA F. SOTO,)
Plaintiff,)
v.) C.A. No. 13-10822
CITY OF CAMBRIDGE,)
Defendant.)))

RULE 5.1 NOTICE OF POSSIBLE CONSTITUTIONAL QUESTION

PLEASE TAKE NOTICE, pursuant to Fed. R. Civ. P. 5.1 and 28 U.S.C. § 2403, that in the above-captioned action, the constitutionality of Mass. Gen. Laws ch. 266, § 126 ("Section 126"), may be drawn into question if the Court were to find that Section 126 applies to, and interferes with, Plaintiff's right to freedom of expression. This notice is given by Paula F. Soto in her capacity as the Plaintiff.

As explained in greater detail in the complaint, the City of Cambridge (the "City") has adopted a policy of prohibiting the placement of leaflets on automobiles (the "Policy"). In enforcing that Policy, the City purports to rely on Section 126. Section 126 does not explicitly prohibit the placement of leaflets on automobiles. Nonetheless, the City has interpreted Section 126 as prohibiting such conduct.

Plaintiff alleges that the City's Policy violates her rights to free speech under the First

Amendment to the United States Constitution and Article XVI of the Massachusetts Declaration
of Rights. Plaintiff does not allege that Section 126 applies to the placement of leaflets on

¹ The City also purports to rely on City of Cambridge Ordinance, § 9.04.050. For purposes of this Notice of Possible Constitutional Question, Plaintiff focuses on Section 126.

automobiles or to other activities constituting the exercise of free speech. However, in an abundance of caution, counsels for Plaintiff provide this notice based on the view that, if Section 126 were interpreted to apply and prohibit and/or criminalize Plaintiff's exercise of free speech, it would be unconstitutional on its face and as applied to Plaintiff.

The Office of Attorney General of the Commonwealth of Massachusetts has already been notified of this possible constitutional question. Specifically, staff attorney Sarah Wunsch of the American Civil Liberties Union of Massachusetts informed the Civil Rights Division Chief of the possibility that a lawsuit would be brought challenging the City's Policy. Ms. Wunsch also provided references to court decisions that support Plaintiff's claim. A copy of this notice, along with the filed complaint, are being served on the Massachusetts Attorney General, in accordance with Fed. R. Civ. P. 5.1(a)(2), by certified mail at: Office of Attorney General Martha Coakley, One Ashburton Place, Boston, MA, 02108.

Dated: May 2, 2013 Respectfully submitted,

/s/ Julia M. Ong

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Certificate of Service

I, Julia M. Ong, hereby certify that the Notice of Possible Constitutional Question filed through ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and paper copies will be sent to the those indicated as non-registered participants on May 2, 2013.

__/s/ Julia M. Ong__

Julia M. Ong